

76-8-109. Failure to disclose conflict of interest.

(1) As used in this section:

(a) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an entity that the officeholder is required to disclose under the provisions of this section, and that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(b) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, whether established primarily for the purpose of gain or economic profit or not.

(c) "Filer" means the individual filing a financial declaration under this section.

(d) "Immediate family" means the regulated officeholder's spouse and children living in the officeholder's immediate household.

(e) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

(f) "Regulated officeholder" means an individual that is required to file a financial disclosure under the provisions and requirements of this section.

(g) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

(2) (a) Before or during the execution of any order, settlement, declaration, contract, or any other official act of office in which a state constitutional officer has actual knowledge that the officer has a conflict of interest which is not stated on the financial disclosure form required under Subsection (4), the officer shall publicly declare that the officer may have a conflict of interest and what that conflict of interest is.

(b) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest which is not stated on the financial disclosure form required under Subsection (4), the legislator shall orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.

(c) Before or during any vote on any rule, resolution, order, or any other board matter in which a member of the State Board of Education has actual knowledge that the member has a conflict of interest which is not stated on the financial disclosure form required under Subsection (4), the member shall orally declare to the board that the member may have a conflict of interest and what that conflict of interest is.

(3) Any public declaration of a conflict of interest that is made under Subsection (2) shall be noted:

(a) on the official record of the action taken, for a state constitutional officer;

(b) in the minutes of the committee meeting or in the Senate or House Journal, as applicable, for a legislator; or

(c) in the minutes of the meeting or on the official record of the action taken, for a member of the State Board of Education.

(4) (a) The following individuals shall file a financial disclosure form:

- (i) a state constitutional officer, to be due on the tenth day of January of each year, or the following business day if the due date falls on a weekend or holiday;
- (ii) a legislator, at the following times:
 - (A) on the first day of each general session of the Legislature; and
 - (B) each time the legislator changes employment;
- (iii) a member of the State Board of Education, at the following times:
 - (A) on the tenth day of January of each year, or the following business day if the due date falls on a weekend or holiday; and
 - (B) each time the member changes employment.

(b) The financial disclosure form shall include:

- (i) the filer's name;
- (ii) the name and address of the filer's primary employer;
- (iii) a brief description of the filer's employment, including the filer's occupation and, as applicable, job title;
- (iv) for each entity in which the filer is an owner or an officer:
 - (A) the name of the entity;
 - (B) a brief description of the type of business or activity conducted by the entity;

and

- (C) the filer's position in the entity;
- (v) for each entity that has paid \$5,000 or more in income to the filer within the one-year period ending immediately before the date of the disclosure form:
 - (A) the name of the entity; and
 - (B) a brief description of the type of business or activity conducted by the entity;
- (vi) for each entity in which the filer holds any stocks or bonds having a fair market value of \$5,000 or more as of the date of the disclosure form, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:
 - (A) the name of the entity; and
 - (B) a brief description of the type of business or activity conducted by the entity;
- (vii) for each entity not listed in Subsections (4)(b)(iv) through (4)(b)(vi), in which the filer serves on the board of directors or in any other type of formal advisory capacity:
 - (A) the name of the entity or organization;
 - (B) a brief description of the type of business or activity conducted by the entity;

and

- (C) the type of advisory position held by the filer;
- (viii) at the option of the filer, any real property in which the filer holds an ownership or other financial interest that the filer believes may constitute a conflict of interest, including:
 - (A) a description of the real property; and
 - (B) a description of the type of interest held by the filer in the property;
- (ix) the name of the filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable;
- (x) a brief description of the employment and occupation of the filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable;

(xi) at the option of the filer, a description of any other matter or interest that the filer believes may constitute a conflict of interest;

(xii) the date the form was completed;

(xiii) a statement that the filer believes that the form is true and accurate to the best of the filer's knowledge; and

(xiv) the signature of the filer.

(c) (i) The financial disclosure shall be filed with:

(A) the secretary of the Senate, for a legislator that is a senator;

(B) the chief clerk of the House of Representatives, for a legislator that is a representative; or

(C) the lieutenant governor, for all other regulated officeholders.

(ii) The lieutenant governor, the secretary of the Senate, and the chief clerk of the House of Representatives shall ensure that blank financial disclosure forms are available on the Internet and at their offices.

(d) Financial disclosure forms that are filed under the procedures and requirements of this section shall be made available to the public:

(i) on the Internet; and

(ii) at the office where the form was filed.

(e) This section's requirement to disclose a conflict of interest does not prohibit a regulated officeholder from voting or acting on any matter.

(5) A regulated officeholder who violates the requirements of Subsection (2) is guilty of a class B misdemeanor.

Amended by Chapter 278, 2013 General Session